

BEFORE THE MINNESOTA PUBLIC UTILITIES COMMISSION

LeRoy Koppendraye  
Ellen Gavin  
Marshall Johnson  
Phyllis A. Reha  
Gregory Scott

Chair  
Commissioner  
Commissioner  
Commissioner  
Commissioner

In the Matter of a Petition by Dakota Electric  
association for Authority to Increase Electric  
Rates

ISSUE DATE: April 21, 2003

DOCKET NO. E-111/GR-03-261

NOTICE AND ORDER FOR HEARING

**PROCEDURAL HISTORY**

On March 3, 2003, Dakota Electric Association (DEA or the Company) filed a petition for a general increase in electric rates. The Company requested a rate increase of about \$5,956,000 or 5.4% over existing rates. For the test year, the Company proposed to use actual historical operations for 2002, adjusted for known and measurable changes. The Company proposed rates effective for electric energy used after January 1, 2004.

In a notice issued March 6, 2003, the Commission requested comments on whether DEA's filing complied with the requirements in Minn. Stat. § 216B.16, Minn. Rules parts 7825.3100 to 7825.4400 and Commission Orders. The Commission also requested comments on whether the matter should be referred to the office of Administrative Hearings (OAH) for a contested case proceeding.

On March 19, 2003, the Department of Commerce (DOC) submitted comments recommending that the Commission accept DEA's filing and refer this matter to the OAH.

The matter came before the Commission on April 10, 2003.

**FINDINGS AND CONCLUSIONS**

**I. Jurisdiction and Referral for Contested Case Proceedings**

The Commission has jurisdiction over proposed rate changes under Minn. Stat. § 216B.16. If the Commission is unable to resolve all significant issues regarding the reasonableness of the proposed rates on the basis of the filing itself, the Commission is to refer the matter to the Office of Administrative Hearings for contested case proceedings. Minn. Stat. § 216B.16, subd. 2.

The Commission finds that it cannot satisfactorily resolve all questions regarding the reasonableness of the proposed rates on the basis of the Company's filing. The Commission will therefore refer the matter to the Office of Administrative Hearings for contested case proceedings.

## II. Proposed Rates

The Company's proposed rate increases by customer class is as follows:

Class	Present Rates	Change From Present Rates	
		\$	%
Residential & Farm Service	\$ 58,559,237	\$ 4,445,817	7.59%
Residential Apartment Service	\$ 6,688,184	\$ 519,623	7.77%
Residential & Farm Demand Control	\$ 30,351	\$ 2,331	7.68%
Irrigation Service	\$ 385,233	\$ 95,884	24.89%
Small General Service	\$ 3,299,518	\$ 363,671	11.02%
General Service	\$ 18,215,613	NA	
Large Power General Service	\$ 9,933,806	NA	
Security Lighting Service	\$ 105,091	\$ 21,092	20.07%
Street Lighting Service	\$ 244,273	\$ 61,042	24.99%
Street Lighting System	\$ 98,586	\$ 5,610	5.69%
Custom Residential Street Lighting	\$ 647,768	\$ 161,660	24.96%
Low Wattage Unmetered Service	\$ 1,932	\$ 0	0.00%
General Service <sup>1</sup>	\$ 28,831,795	NA	NA
Municipal Civil Defense Sirens	\$ 3,600	\$ 0	0.00%
Large Commercial & Industrial Service	\$ 682,376	NA	
Controlled Energy Storage	\$ 168,126	\$ 22,417	13.33%
Controlled Interruptible Service	\$ 786,414	\$ 89,876	11.43%

---

<sup>1</sup>Dakota Electric proposed to implement a new General Service Schedule 46 to replace the present Schedules 42 (General Service), 43 (Large Power General Service), and 48 (Large Commercial & Industrial Service), resulting in NAs above. The sum of the present rates for the three classes is \$28,831,795. The proposed combined rate is an increase of \$50,299 or .174%.

Residential & Farm Time of Day	\$ 24,848	\$ 1,768	7.12%
General Service Time of Day	\$ 768,098	\$ 97,064	12.64%
Full Interruptible Service	\$ 9,108,506	\$ 14,721	0.16%
Partial Interruptible Service	\$ 1,282,605	\$ (16,588)	-1.29%
Controlled Air Conditioning Service	\$ (1,013,954)	\$ 0	0.00%

A copy of the Company's rate increase proposal is on file in the offices of the Department of Commerce, 85 Seventh Place East, Suite 500, St. Paul, Minnesota 55101-2198, and is open for public inspection during regular office hours. Copies are also available for public inspection at the Company's offices at 4300 220<sup>th</sup> Street West, Farmington, Minnesota 55024-9583.

The Commission, by separate Order, has accepted the filing and suspended the Company's proposed rates. By further Order, the Commission will direct the Company to place an interim rate schedule into effect. Interim rates are subject to refund if the Commission ultimately orders a lower overall revenue increase than is recovered through interim rates. Minn. Stat. § 216B.16, subd. 3.

### **III. Issues to be Addressed**

Parties shall address the following issues in the course of the contested case proceedings ordered herein:

- (1) Is the test year revenue increase sought by the Company reasonable or will it result in unreasonable and excessive earnings by the Company?
- (2) Is the rate design proposed by the Company reasonable?
- (3) Is the Company's proposed capital structure and return on equity reasonable?

The parties may also raise and address other issues relevant to the Company's proposed rate increase.

### **IV. Procedural Outline**

#### **A. Administrative Law Judge**

The Administrative Law Judge assigned to this case is Kathleen D. Sheehy. Her address and telephone number are as follows: Office of Administrative Hearings, Suite 1700, 100 Washington Square, Minneapolis, Minnesota 55401-2138; (612) 341-7602.

## **B. Hearing Procedure**

- *Controlling Statutes and Rules*

Hearings in this matter will be conducted in accordance with the Administrative Procedure Act, Minn. Stat. §§ 14.57-14.62; the rules of the Office of Administrative Hearings, Minn. Rules, parts 1400.5100 to 1400.8400; and, to the extent that they are not superseded by those rules, the Commission's Rules of Practice and Procedure, Minn. Rules, parts 7829.0100 to 7829.3200.

Copies of these rules and statutes may be purchased from the Print Communications Division of the Department of Administration, 117 University Avenue, St. Paul, Minnesota 55155; (651) 297-3000. These rules and statutes also appear on the State of Minnesota's website at [www.revisor.leg.state.mn.us](http://www.revisor.leg.state.mn.us).

The Office of Administrative Hearings conducts contested case proceedings in accordance with the Minnesota Rules of Professional Conduct and the Professionalism Aspirations adopted by the Minnesota State Bar Association.

- *Right to Counsel and to Present Evidence*

In these proceedings, parties may be represented by counsel, may appear on their own behalf, or may be represented by another person of their choice, unless otherwise prohibited as the unauthorized practice of law. They have the right to present evidence, conduct cross-examination, and make written and oral argument. Under Minn. Rules, part 1400.7000, they may obtain subpoenas to compel the attendance of witnesses and the production of documents.

Parties should bring to the hearing all documents, records, and witnesses necessary to support their positions.

- *Discovery and Informal Disposition*

Any questions regarding discovery under Minn. Rules, parts 1400.6700 to 1400.6800 or informal disposition under Minn. Rules, part 1400.5900 should be directed to Clark Kaml, Public Utilities Rates Analyst, Minnesota Public Utilities Commission, 121 7<sup>th</sup> Place East, Suite 350, St. Paul, Minnesota 55101-2147, (651)297-4563; or Cassandra Ohern, Assistant Attorney General, 1100 NCL Tower, 445 Minnesota Street, St. Paul, Minnesota 55101, (651) 282-5725.

- *Protecting Not-Public Data*

State agencies are required by law to keep some data not public. Parties must advise the Administrative Law Judge if not-public data is offered into the record. They should take note that any not-public data admitted into evidence may become public unless a party objects and requests relief under Minn. Stat. § 14.60, subd. 2.

- *Accommodations for Disabilities; Interpreter Services*

At the request of any individual, this agency will make accommodations to ensure that the hearing in this case is accessible. The agency will appoint a qualified interpreter if necessary. Persons must promptly notify the Administrative Law Judge if an interpreter is needed.

- *Scheduling Issues*

The times, dates, and places of public and evidentiary hearings in this matter will be set by order of the Administrative Law Judge after consultation with the Commission and intervening parties.

- *Notice of Appearance*

Any party intending to appear at the hearing must file a notice of appearance (Attachment A) with the Administrative Law Judge within 20 days of the date of this Notice and Order for Hearing.

- *Sanctions for Non-compliance*

Failure to appear at a prehearing conference, a settlement conference, or the hearing, or failure to comply with any order of the Administrative Law Judge, may result in facts or issues being resolved against the party who fails to appear or comply.

### **C. Parties and Intervention**

The current parties to this case are the Company and the Minnesota Department of Commerce. Other persons wishing to become formal parties shall promptly file petitions to intervene with the Administrative Law Judge. They shall serve copies of such petitions on all current parties and on the Commission. Minn. Rules, part 1400.6200.

### **D. Prehearing Conference**

A prehearing conference will be held in this case on May 7, 2003 at 9:30 a.m. in the Small Hearing Room, Public Utilities Commission, 121 7th Place East, Suite 350, St. Paul, Minnesota 55101. Persons participating in the prehearing conference should be prepared to discuss time frames, scheduling, discovery procedures, and similar issues. Potential parties are invited to attend the prehearing conference and to file their petitions to intervene as soon as possible.

### **E. Time Constraints**

The Commission is required to act on the Company's filing within ten months, or the proposed rates are deemed approved. Minn. Stat. § 216B.16, subd. 2. This ten-month period can be extended for brief periods to permit the negotiation and consideration of settlements. Minn. Stat. § 216B.16, subds. 1a and 2.

The Commission asks the Office of Administrative Hearings to conduct contested case proceedings in light of these time constraints and requests that the Administrative Law Judge submit her final report by November 3, 2003 to allow the Commission adequate opportunity for thorough consideration of the case.

## **V. Application of Ethics in Government Act**

The lobbying provisions of the Ethics in Government Act, Minn. Stat. §§ 10A.01 et seq., may apply to this case. Persons appearing in this proceeding may be subject to registration, reporting, and other requirements set forth in that Act. All persons appearing in this case are urged to refer to the Act and to contact the Campaign Finance and Public Disclosure Board, telephone number (651) 296-5148, with any questions.

## **VI. Ex Parte Communications**

Restrictions on ex parte communications with Commissioners and reporting requirements regarding such communications with Commission staff apply to this proceeding from the date of this Order. Those restrictions and reporting requirements are set forth at Minn. Rules, parts 7845.7300-7845.7400, which all parties are urged to consult.

## **ORDER**

1. The Commission hereby refers this case to the Office of Administrative Hearings for contested case proceedings, as set forth above.
2. A prehearing conference shall be held on May 7, 2003 at 9:30 a.m. in the Small Hearing Room, Public Utilities Commission, 121 7th Place East, Suite 350, St. Paul, Minnesota 55101
3. The Commission delegates to the Executive Secretary the authority to approve customer notices and bill inserts for the duration of this proceeding.
4. This Order shall become effective immediately.

BY ORDER OF THE COMMISSION

Burl W. Haar  
Executive Secretary

(S E A L)

This document can be made available in alternative formats (i.e., large print or audio tape) by calling (651) 297-4596 (voice), (651) 297-1200 (TTY), or 1-800-627-3529 (TTY relay service).

ATTACHMENT A

BEFORE THE MINNESOTA OFFICE OF ADMINISTRATIVE HEARINGS

100 Washington Square, Suite 1700  
Minneapolis, Minnesota 55401-2138

FOR THE MINNESOTA PUBLIC UTILITIES COMMISSION

121 Seventh Place East Suite 350  
St. Paul, Minnesota 55101-2147

In the Matter of a Petition by Dakota Electric  
Association for Authority to Increase Electric  
Rates

MPUC Docket No. E-111/GR-03-261

OAH Docket No.

NOTICE OF APPEARANCE

Name, Address and Telephone Number of Administrative Law Judge:

Kathleen D. Sheehy, Office of Administrative Hearings, Suite, 1700, 100 Washington Square,  
Minneapolis, Minnesota 55401; (612) 341-7602.

TO THE ADMINISTRATIVE LAW JUDGE:

You are advised that the party named below will appear at the above hearing.

NAME OF PARTY:

ADDRESS:

TELEPHONE NUMBER:

PARTY'S ATTORNEY OR OTHER REPRESENTATIVE:

OFFICE ADDRESS:

TELEPHONE NUMBER:

SIGNATURE OF PARTY OR ATTORNEY: \_\_\_\_\_

DATE: \_\_\_\_\_